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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,934	05/20/2005	Patrick, Michel White	PRE-SA-0105	7095
33751	7590	01/22/2010		
Greatbatch Ltd. 10,000 Wehrle Drive Clarence, NY 14031			EXAMINER LAWSON, MATTHEW JAMES	
			ART UNIT 3775	PAPER NUMBER
			NOTIFICATION DATE 01/22/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mscalise@greatbatch.com

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Office Action Summary

Application No.

10/510,934

Applicant(s)

WHITE ET AL.

Examiner

MATTHEW LAWSON

Art Unit

3775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,5,7-10,12-17,20-25,27-32 and 34-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1, 4, 6, 11, 18-19, 26, and 33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ ~~Notes of Informal Patent Application~~
- 6) ☐ Other: ____

DETAILED ACTION

Claims 2-3, 5, 7-10, 12-17, 20-25, 27-32, and 34-38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 15th, 2009.

Claim Objections

Claims 4 and 6 are objected to because of the following informalities: Claim 6 was elected in a response sent on April 15th, 2009 which is dependant upon claim 4 which was not elected. For examination purposes claim 6 has been rejected along with the limitations of claim 4 which claim 6 is dependant upon. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

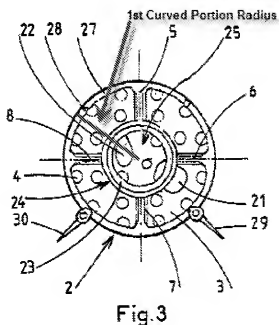
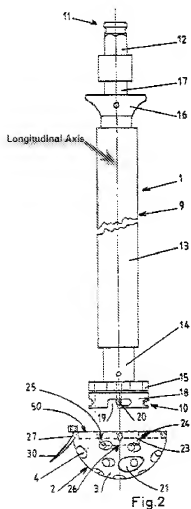
Claims 1, 4, 6, 11, 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Bresler et al. (US 6,102,915).

Regarding claims 1, 4, 6, 11, and 18-19, Bresler et al. disclose a surgical reamer for cutting a hone socket, comprising a cutting structure (2, figures 1-3) rotatable about

a longitudinal axis (see figure below) and having a domed shell portion (figure 3) with an outer surface presenting multiple cutting sites comprising apertures (4, figures 2-3) suitable for passing debris into a cavity defined by an inner surface of the shell portion where the debris may accumulate, the shell having a static insertion profile (figure 3) being defined by a first curved portion generated about a first radius (see figure below) with a center that lies on the axis and a second curved portion (29/30, figures 2-3) generated about a center that is spaced apart and not necessarily parallel to the axis, the second curved portion defining an edge (27, figure 2) reducing a static insertion profile area of the cutting structure (figure 2), the cutting structure having a dynamic profile area generated upon rotation, both static insertion and dynamic profile areas lying transverse to the axis (figure 2), wherein the edge defined by the second curved portion reduces the static insertion profile area of the cutting structure such that the static insertion profile area is smaller than the dynamic profile area (figures 2-3), and further comprising a pair of second curved portions (29, 30, figures 2-3) that are situated in opposed relationship from one another with respect to the shell, wherein the pair of second curved portions is convex relative to the rotational axis (figure 2), wherein the shell has a partially hemispherical domed shape with an apex and a pair of first curved portions that respectively define a pair of diametrically opposed base portions spaced from the apex (figures 1-2), and further comprising means for mounting the cutting structure to a tool holder for controlled rotation by a power source (5, 6, 7, 8, figure 3), wherein the mounting means further comprises an alignment structure (5, 6, 7, 8, figure

3) extending between the base portions and cooperating with the tool holder (1, figures 1-3) for controlled rotation (figure 1-3, column 3, lines 35-40).

Regarding claim 18 it appears the applicant has invoked a 112 6th paragraph limitation as the claim passes all limitations of the three prong test found in MPEP 2181 (I).



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bresler et al. (US 6,102,915) in view of Lechot (US 6,702,819).

Bresler et al. disclose the claimed invention including the alignment structure having a bar (5, 7, figure 3) having opposed terminal ends fixed at the base and a cross member, but fails to disclose a cross member having opposed free ends and being of a lesser length than the base and the cross-member intersecting the bar at the axis to define a cruciform shape for receipt by a bayonet catch on the handle while allowing removal of debris adjacent the free ends of the cross-member.

Lechot discloses an alignment structure (figures 1-2) having a bar (1, figure 1) having opposed terminal ends (6, 8, figure 1) fixed at the base and a cross member (2, figures 1-2) having opposed free ends and being of a lesser length than the base (figure 2) and the cross-member intersecting the bar at the axis to define a cruciform shape (figures 1-2) for receipt by a bayonet catch on the handle while allowing removal of debris adjacent the free ends of the cross-member to omit welds and to eliminate the cleaning problems inherent to welds (column 3, lines 35-40). Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the alignment structure of Bresler to include a cross member having opposed free ends as taught by Lechot because it eliminates the need for welds which absolves the cleaning problems that are inherent to welds making for a more sterilizable reaming device.

Response to Arguments

Applicant's arguments with respect to claims 1, 4, 6, 11, 18-19, 26, and 33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MATTHEW LAWSON** whose telephone number is (571)270-7375. The examiner can normally be reached on M-F, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached on 571-272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L./
Examiner, Art Unit 3775

/Thomas C. Barrett/
Supervisory Patent Examiner, Art
Unit 3775